

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2023.03
COMPLAINT INVESTIGATOR: Sally Cook
DATE OF COMPLAINT: April 7, 2003
DATE OF REPORT: May 7, 2003
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: June 2, 2003

COMPLAINT ISSUES:

Whether the Mooresville Consolidated School Corporation and the West Central Joint Services violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing:

- a. to begin the Student's school day in the general education classroom;
- b. to permit the Student to remain with general education students for the full time of lunch and recess;
- c. to provide opportunities for the Student to use the bathroom used by general education students;
- d. to take steps to replace program materials ("Ed-Mark") promptly after discovering the materials were missing; and
- e. to utilize a picture schedule board.

During the course of the investigation, the Parent withdrew subpart c. of the Complaint.

FINDINGS OF FACT:

1. The Student is nine years old and is eligible for special education and related services as a student with an autism spectrum disorder, moderate mental disability, and a communication disorder.
2. The Student's individualized education program (IEP) states that the location of special education services is both special education and general education settings. Although the IEP states that the placement selected by the case conference committee (CCC) is a separate special education classroom for more than 60% of the instructional day, the Special Education Student Information C.O.D.A. form states that the Student is mainstreamed 75% of the school day.
3. The Student's IEP, as amended from time to time, refers to a daily schedule that calls for the Student to be in the general education classroom at the beginning of the school day (8:40 a.m.). The School has not documented that the Student arrived in the general education classroom by 8:40 a.m. each day.
4. It is undisputed that, during the period from the beginning of the 2002-2003 school year until February 4, 2003, the special education bus sometimes delivered the Student to the School approximately ten minutes earlier than other students arrived. On those occasions, the Student spent time in the special education classroom before being escorted to the general education classroom. It is also undisputed that, as of February 4, 2003, bus transportation arrangements were resolved so that the Student can go straight to the general education classroom, at the same time that nondisabled students are arriving.

5. Prior to February 4, 2003, the Student had been escorted from the lunchroom, under the supervision of a paraprofessional, prior to the end of the lunch period. Although increasing the length of time the Student stays in the lunchroom is not an IEP goal as such, the CCC reached agreement, on February 4, 2003, to try to lengthen the Student's tolerance for the entire lunch period. Since February 4, 2003, there have been some days when the Student has been able to remain for the entire lunch period.
6. The Student's Behavior Intervention Plan, as revised on February 4, 2003, includes both proactive and reactive use of break areas. A break area in the lunchroom or on the playground was not contemplated, and it is undisputed that a break area would not be appropriate or effective in a noisy lunchroom or playground. The use of the break area strategy during the lunch period necessarily involves having the Student leave the lunchroom or playground, upon occasion, before the end of the lunch period or recess.
7. On or about February 27, 2003, it was discovered that the Student's Edmark Reading Series materials were missing. The Parent contacted the program coordinator at the special education cooperative. The program coordinator arranged to borrow a set of Edmark materials from another school.
8. As of March 10, 2003, the borrowed Edmark materials were in use. On March 25, 2003, the local director of special education ordered a replacement set of Edmark Reading materials, for approximately \$500. The new materials arrived April 7, 2003.
9. Use of a picture schedule was expressly noted in the IEP itself (benchmark/objective under the Communication goal), in the notes of several CCC meetings, in the original Behavior Plan, and in the revised Behavior Intervention Plan. The School experimented with several different formats (wipe-off pages, pull-off folder, pull-off desk, pull-off envelope). The format eventually utilized, with parental approval, is a picture schedule on the back the PECS book.
10. The School has provided no documentation of the consistent use of a picture schedule across environments within the School.

CONCLUSIONS:

1. a. Findings of Fact #3 and #4 indicate that, during the period from the beginning of the 2002-2003 school year until February 4, 2003, there were times that the Student's class schedule was not followed at the beginning of the instructional day. However, there is nothing in Findings of Fact #3 or #4 indicating that the total amount of missed general education time was so large as to conflict with the percentages required by the Student's individualized education program, as indicated by Finding of Fact #2. Therefore, no violation of 511 IAC 7-27-7(a) occurred.
 - b. Findings of Fact #5 and #6 indicate that the School did not refuse to permit the Student to remain with other students for the full lunch period or otherwise fail to implement the Student's individualized education program with respect to lunch and recess. Therefore, no violation of 511 IAC 7-27-7(a) occurred.
 - c. [withdrawn]
 - d. Findings of Fact #7 and #8 indicate that the Student was without the use of the Edmark Reading materials for less than ten days. There is no rule specifying a timeline for replacing lost or stolen materials. Therefore, no violation of 511 IAC 7-27-7(a) occurred.

- e. Findings of Fact #9 and #10 indicate that the School has not documented the use of picture schedule board(s) to the extent required by the Student's individualized education program. Therefore, a violation of 511 IAC 7-27-7(a) occurred with respect to the utilization of a picture schedule board.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Beginning not later than May 12, 2003, and continuing through May 19, 2003, Mooresville Consolidated School Corporation shall collect data documenting the use of the Student's visual schedule(s) throughout the school environment (general education classrooms, special education classroom, bathroom, lunchroom, etc.). The data shall be reported to the case conference committee on or before May 20, 2003.

A copy of the data sheets, or a summary of the data, shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by May 30, 2003.

DATE REPORT COMPLETED: May 7, 2003